



STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF	:	
	:	
Tammy Caltabiano, R.N.	:	ADMINISTRATIVE ACTION
License No. 26NR11629400	:	
	:	FINAL ORDER OF
	:	DISCIPLINE
TO PRACTICE NURSING	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Nursing ("Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Tammy Caltabiano ("Respondent") is licensed as a registered professional nurse in the State of New Jersey and has been a licensee at all relevant times.

2. The Board received information indicating that Respondent was arrested on August 24, 2012 by the New Jersey State Police for two (2) Counts 2C:35-10A(1) Possession of Controlled Dangerous Substance or Analog, one (1) Count 2C:33-2B Offensive Language, and one (1) Count 2C:29-2A(1) Resisting Arrest. On August 29, 2012, the Board sent Respondent a letter of inquiry via regular and certified

mail requesting certain information about the arrest, nursing employment and continuing education. Respondent signed the receipt for delivery of the certified mail.

3. Respondent provided a partial response. Her attorney, Robert Simons, sent the Board two letters. The first letter was sent on September 21, 2012, advising the Board of his representation of Respondent, and his assurance that he would update the Board on the status of Respondent's case. The second letter, sent to the Board on January 28, 2013, stated that Respondent's case was still pending. No further information was provided.

#### CONCLUSIONS OF LAW

Respondent's failure to respond to the Board's inquiry constitutes a failure to cooperate with a Board investigation, in contravention of N.J.A.C. 13:45C-1.2 and 1.3, which the Board deems professional misconduct within the meaning of N.J.S.A. 45:1-21(e), and also subjects Respondent to disciplinary sanctions pursuant to N.J.S.A. 45:1-21(h).

Additionally, Respondent's drug-related arrest on August 24, 2012, raises sufficient concern that testing, monitoring, evaluation and treatment are warranted, as a condition for continued or reinstated licensure, to evaluate whether Respondent's continued practice as a nurse may jeopardize the safety and welfare

of the public pursuant to N.J.S.A. 45:1-22(f) and to ensure that Respondent can properly discharge nursing functions pursuant to N.J.S.A. 45:1-22(e).

Based on the foregoing findings and conclusions, a Provisional Order of Discipline was entered on July 3, 2014, provisionally suspending respondent's nursing license, ordering respondent to undergo evaluation under the auspices of the Recovery and Monitoring Program of New Jersey (RAMP) and imposing a \$1,000.00 civil penalty. A copy of the Order was served upon respondent and on her attorney. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent replied to the Provisional Order, via her newly-hired attorney, JoAnn Pietro, Esq., with two letters, one dated August 13, 2014, and the second dated September 16, 2014. The information and documentation relating to the 2012 arrest was provided, including its disposition. Respondent herself had provided documentation of nursing continuing education. The

attorney argued that Ms. Caltabiano had relied upon her criminal attorney to represent her with respect to the Board, and implored the Board to forego or reduce the monetary penalty set forth in the Provisional Order. However, the attorney acknowledged that Ms. Caltabiano ought to have checked with her attorney to confirm that he was providing the Board with the information and documentation it had requested. Ms. Pietro also argues that her client is presently in counseling because of an abusive relationship with her male partner at the time, and Ms. Caltabiano herself denies any abuse of drugs or alcohol. Ms. Caltabiano attributes the charges filed against her to conduct by her male partner, who she claimed placed pills in her purse unbeknownst to her, and purportedly over-aggressive conduct by the police. Ms. Caltabiano acknowledges using profane language, but denies directing these comments at the state troopers involved.

Ms. Caltabiano's attorney urges that Ms. Caltabiano be permitted evaluation under the auspices of the Professional Assistance Program of New Jersey (PAP), because, while RAMP is beneficial to persons with substance use disorder, Ms. Caltabiano claims to be dealing with post-traumatic stress disorder. It is thus maintained that Ms. Caltabiano warrants an evaluation less "limited" than the evaluation that RAMP would provide, as she is not someone who would benefit from participation in RAMP.

Additionally she objected to the financial burden of participation in RAMP.

The Board considered these arguments, and determined that in deference to respondent's preference, RAMP participation would not be ordered at this time. However, the Board believes that respondent should be evaluated by a Board-approved evaluator, and determined that it would provide Ms. Caltabiano with the names of three evaluators in her geographic area, pre-approved by the Board. Upon respondent's selection of one of these evaluators, the information in the Board's files, primarily submitted by respondent, would be forwarded to the evaluator, to be reviewed by the evaluator prior to meeting with respondent.

With respect to the \$1,000.00 civil penalty, the Board noted that once respondent had permitted her attorney to represent her in her dealings with the Board, the Board could not contact her directly. Thus, in order to obtain requested information, the Board had to issue a public order in July of 2014, where the arrest had taken place in August of 2012, and the matter was dismissed on February 21, 2014, following respondent's admission into the Pre-Trial Intervention Program. Thus the Board determined that, although suspension was no longer applicable as respondent had fully responded to the Board's original request for information, the \$1,000.00 civil penalty for the initial failure to cooperate was warranted.

ACCORDINGLY, IT IS on this 28<sup>th</sup> day of October, 2014,

ORDERED that:

1. Respondent shall schedule an appointment for a mental health and substance abuse evaluation by an evaluator pre-approved by the Board. Along with this Order, respondent shall be forwarded a list of three evaluators in her geographic area, from among which she shall select one, and within forty five (45) days she shall schedule an appointment to meet with the evaluator for evaluation. This shall be at respondent's own expense. Respondent's attorney shall notify the Board of the date of the scheduled evaluation and the name of the evaluator, so that materials may be forwarded to the evaluator for review prior to meeting with respondent. Following the appointment, or any subsequently scheduled appointments, respondent shall authorize the evaluator to prepare a report for review by the Board, indicating the evaluator's conclusions as to respondent's fitness to practice nursing, and the need for any subsequent treatment, if applicable.

2. A civil penalty in the amount of \$1,000.00 is hereby imposed upon Respondent for failing to cooperate. Payment shall be made by certified check or money order, payable to the State of New Jersey, delivered to George Hebert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, New Jersey 07101. Payment shall be made no later than 15 days after the entry of this Order. In the event Respondent fails to make a timely payment, a

certificate of debt shall be filed in accordance with N.J.S.A 45:1-  
24 and the Board may bring such other proceedings as authorized by  
law.

NEW JERSEY STATE BOARD OF NURSING

By: Patricia Murphy PhD APRN  
Patricia Murphy, PhD, APRN  
President